



State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

(304) 558-2021
Fax (304) 558-0140

**WRITTEN DETERMINATION APPOINTING
CAREY, SCOTT, DOUGLAS & KESSLER, PLLC AS
OUTSIDE COUNSEL ON BEHALF OF THE GOVERNOR OF WEST VIRGINIA**

The Governor of West Virginia (hereinafter "Governor") is seeking the assistance of outside counsel to assist with currently pending litigation. More specifically, the Governor is seeking legal assistance to defend litigation styled: *G. Issac Sponaugle, III v. James Conley Justice, II*, Case No. 18-0810, currently pending in the Supreme Court of Appeals of West Virginia.

After submitting a proposal in response to Request For Proposals # 71 the law firm of Carey, Scott, Douglas & Kessler, PLLC was selected by the Governor and appointed by Written Determination dated July 10, 2018, to represent the Governor with respect to litigation styled: *G. Issac Sponaugle, III v. James Conley Justice, II*, Civil Action No. 18-P-217, then pending in the Circuit Court of Kanawha County. That civil action was subsequently dismissed by the Circuit Court of Kanawha County and the current proceeding was initiated in the Supreme Court of Appeals. As a result, the Governor's legal interests are now, once again, at issue in this new proceeding. Due to the nature of the Supreme Court of Appeals proceeding, the similarity of the parties and legal interests, Carey, Scott's familiarity with the same, the Governor's continued confidence in Carey, Scott's ability to represent his interests, and in the interests of efficiency and expeditiousness, the law firm of Carey, Scott's appointment to represent the Governor is hereby extended and expanded to include representation of the Governor in *G. Issac Sponaugle, III v. James Conley Justice, II*, Case No. 18-0810, currently pending in the Supreme Court of Appeals of West Virginia.

Based on the factors set forth above, as evaluated by the Governor, the Office of the Attorney General authorizes the appointment of Carey, Scott, Douglas & Kessler, PLLC to serve as outside counsel for the legal matter cited herein pursuant to Section (E) of Policy # WVAGO-004.

A handwritten signature in black ink, appearing to read "Steven A. Travis".

Steven A. Travis
Deputy General Counsel

Date Signed: September 21, 2018

CAREY, SCOTT, DOUGLAS & KESSLER, PLLC
 901 Chase Tower
 707 Virginia Street, East
 P. O. Box 913
 Charleston, WV 25323

State of WV-Office of the Attorney General
 State Capitol Bldg. 1, Rm. E-26
 1900 Kanawha Blvd. East
 Charleston WV 25305

Page: 1
 11/30/2018
 Account No: 1647-001M
 Statement No: 11683

Attn: Brian Abraham

RFP #71

I HEREBY CERTIFY THAT THE
 ITEMS LISTED HEREON HAVE
 BEEN RECEIVED AND APPROVED
 FOR PAYMENT

11/19/18 Mary Biffel
 Date Name

RFP # 71
 C. Isaac Sponaugle, III v. James Conley Justice, II
 Civil Action No. 18-P-217

	Previous Balance		\$8,270.10
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Fees

			Hours	
10/01/2018	DRP	Review transcript of August 27, 2018 hearing.	0.20	55.00
	DRP	Review petition for writ of mandamus.	0.50	137.50
	DRP	Review Sponaugle's appendix.	1.30	357.50
	DRP	Telephone call with West Virginia Supreme Court General Counsel.	0.10	27.50
	DRP	Research regarding holding public officials in contempt; conference with Mr. Carey.	1.10	302.50
	LA	Print copies of Sponaugle petition and appendix for Mr. Carey; calendar deadline to file reponse on October 16, 2018.	0.20	n/c
	MWC	Review petition; conference with Mr. Pogue; review research; conference with Mr. Pogue.	1.00	350.00
10/02/2018	DRP	Research regarding mandamus only for nondiscretionary duties.	1.00	275.00
	DRP	Work on response to petition for writ of mandamus.	4.80	1,320.00
10/03/2018	DRP	Work on response to petition for writ of mandamus.	5.80	1,595.00
	LA	Reconfigure and print chart from Brian Abraham for Mr. Carey's review.	0.20	n/c
	MWC	Work on response to petition for mandamus.	1.70	595.00
10/04/2018	DRP	Work on response to petition for writ of mandamus.	2.80	770.00

RFP #71

			Hours	
	LA	Type Mr. Carey's portion of response to writ; submit draft to Mr. Carey; type additions and revisions; submit draft to Mr. Carey.	0.30	n/c
	LA	Draft Clerk letter, certificate of service and cover sheet for response to petition for writ of mandamus; draft outline for Table of Contents.	0.70	70.00
	MWC	Review and revise draft response.	1.10	385.00
10/05/2018	DRP	Draft affidavit of Brian Abraham.	0.20	55.00
	DRP	Review and mark questions on public appearance chart.	0.20	55.00
	DRP	Email to Brian Abraham.	0.10	27.50
	DRP	Review chart from Brian Abraham.	0.30	82.50
	LA	Type Mr. Carey's additions to response brief; email draft to Mr. Carey.	0.70	n/c
10/08/2018	LA	Organize and tally dates relating to events and the Governor's attendance; submit totals to Mr. Pogue.	2.00	n/c
10/09/2018	DRP	Review and analyze spreadsheet from Brian Anderson.	1.30	357.50
	LA	Join Mr. Carey's section III into response brief; print draft for Mr. Carey's edits.	0.10	n/c
	MWC	Continue work on response,	0.70	245.00
10/10/2018	LA	Check spreadsheet entries of Governor Justice's events; change date formats; submit information to Mr. Pogue.	1.20	n/c
	LA	Revise and edit Table of Contents and Table of Authorities for client's response brief; review brief.	1.50	n/c
	DRP	Work on response brief.	1.10	302.50
10/11/2018	LA	Check Table of Contents and Table of Authorities.	0.60	n/c
	LA	Continue work on Table of Contents and Table of Authorities for client's response brief.	2.20	220.00
	DRP	Review <i>State ex rel. Workman v. Carmichael, et al.</i>	1.00	275.00
10/12/2018	DRP	Work on response brief.	2.80	770.00
	DRP	Research regarding political question doctrine.	0.70	192.50
10/15/2018	DRP	Research regarding mandamus for abuse of discretion; revise and edit response brief.	1.60	440.00
	DRP	Research regarding political question doctrine.	2.00	550.00
	DRP	Review and edit response brief; add political question argument.	1.00	275.00
	DRP	Review articles from Brian Abraham.	0.70	192.50
10/16/2018	DRP	Review articles from Brian Abraham.	0.50	137.50
	DRP	Review and edit response brief; add citations to appendix.	1.80	495.00

RFP #71

			Hours
LA	Scan and Bates number appendix; draft appendix cover, certification and Table of Contents; merge all into one document; prepare same for filing; review brief and check Table of Contents and Table of Authorities cites.	1.80	n/c
LA	Finalize Table of Authorities for brief; mail same to Sponaugle; hand deliver to Supreme Court.	2.40	n/c
MWC	Work on brief; review newspaper articles; review, revise and finalize brief.	1.60	560.00
10/25/2018	DRP Research regarding issues raised by Nigel Jeffries.	0.70	192.50
	For Current Services Rendered	42.60	11,665.00
	Total Non-billable Hours	11.00	

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>
Michael W. Carey	6.10
David R. Pogue	33.60
Paralegal	2.90

Total Current Work	11,665.00
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Payments

11/21/2018	Payment for Advances - State of West Virginia Check#1003989202 for Statement #11584.	-100.10
11/21/2018	Payment for Fees - State of West Virginia Check#1003989202 for Statement #11584.	-7,260.00
11/21/2018	Payment for Fees - State of West Virginia Check #1003989202 for Statement #11619.	-910.00
	Total Payments	<u>-8,270.10</u>
	Balance Due	<u>\$11,665.00</u>